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PACIFIC  **TELESIS**
Group-Washington

October 21, 1996

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Federal Communications Commission
Office of Secretary

Mr. William F. Caton
Acting Secretary
Federal Communications Commission
Mail Stop 1170
1919 M Street, N.W., Room 222
Washington, D.C. 20554

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Dear Mr. Caton:

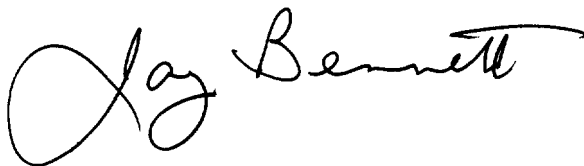
Re: CC Docket No. 96-61, *Policy and Rules Concerning the Interstate, Interexchange Marketplace*

Implementation of Section 245(g) of the Communications Act of 1934, as amended

On behalf of *Pacific Telesis Group*, please find enclosed an original and six copies of its "*Opposition to Petition for Reconsideration*" in the above proceeding.

Please stamp and return the provided copy to confirm your receipt. Please contact me should you have any questions or require additional information concerning this matter.

Sincerely,



Enclosures

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Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

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OCT 21 1996

Federal Communications Commission
Office of Secretary

In the Matter of

Policy and Rules Concerning the
Interstate, Interexchange Marketplace

Implementation of Section 254(g) of the
Communications Act of 1934, as amended

CC Docket No. 96-61

OPPOSITION TO PETITION FOR RECONSIDERATION

Pacific Telesis Group ("PTG") hereby respectfully opposes the Petition for
Reconsideration of AT&T Corp., filed September 16, 1996, in the above-captioned proceeding.

I. AT&T DOESN'T DESERVE GREATER FLEXIBILITY THAN
"REGIONAL CARRIERS."

AT&T seeks a discriminatory exception to the general rate averaging rule. The exception would purposely benefit "national carriers" vis-a-vis "large regional carriers." (AT&T, p. 2.) These two classes of carriers are nowhere to be found in the Commission's rules. They are recent creations of AT&T's pleadings. Its original request for this relief having been denied, AT&T now submits "recently-available facts concerning the activities of the interexchange affiliates of incumbent local exchange carriers [which] confirm that national carriers need greater flexibility to file geographically specific rates and optional calling plans, and that consumers will reap immediate benefits if the Commission grants the relief AT&T requests here." (AT&T, p. 2.)

AT&T's "recently-available facts" are hardly front-page material. AT&T declares that it has lost 25% of its customers in Connecticut -- as if the erosion of AT&T's market share

by itself threatened the public interest. The premise of AT&T's petition is that "large regional carriers" have advantages "which cannot be duplicated by [their] national competitors." (AT&T, p. 3.) AT&T does not say what all these advantages are supposed to be. The advantages that it does allege are misleadingly portrayed. And it describes these supposed advantages with respect to only two carriers, SNET and Alltel, which are not the most representative of the "large regional carriers" that would be prejudiced by AT&T's "national carrier" exception.

"Regional carrier" is a misnomer. AT&T assumes the existence of something called a "large regional carrier," one which, by virtue of providing regional service only, will escape the Commission's burdensome rate averaging requirements. "Regional carriers, in contrast [to "national carriers"], face no 'rate averaging' constraints under the Commission's rules." (AT&T, p. 6.)

No "regional carriers" by this description exist. Every interLATA carrier will face the "'rate averaging' constraints" of the Commission's rules, because it is a competitive imperative that all interLATA carriers must offer nationwide service. Nobody signs up with an IXC to make only regional calls. Customers demand the ability to make calls to anywhere in the nation, if not the world. Most customers also make calls while traveling, and expect their IXCs to offer a travel service (such as a calling card or national 800 service) that enables them to do so conveniently. The prices that new IXCs charge for these interstate services must comply with rate averaging requirements. AT&T posits a disparity of treatment between "national" and "regional" carriers that does not exist, in order to support discriminatory pricing flexibility for itself.

The "complete package" advantage accrues to AT&T, not to "regional carriers."

AT&T says that the "clearest example" of the need to grant its petition "is the rapidly emerging

competition from SNET in Connecticut.” AT&T complains that “SNET’s in-region marketing focuses on several key attributes which cannot be duplicated by its national competitors, including the fact that SNET is the only entity which can practicably offer a complete package of local, intraLATA toll, interLATA and cellular services, all of which can be provided on a single bill.” (AT&T, p. 3.)

The point actually goes against AT&T. The RBOCs, whose local exchange affiliates compete to provide the local services of the vast majority of American consumers, are still legally barred from the \$70 billion interLATA market. No such prohibition applies to AT&T or other “national carriers.” They can and do provide local service now.¹ In fact, the “complete package” advantage is the cornerstone of AT&T’s marketing strategy. As AT&T’s Chairman Robert E. Allen has made clear, AT&T:

intends to “take a basic \$25-a-month long-distance customer and convert him or her into a \$100-a-month customer for a broader bundle of services that includes long distance as well ... AT&T is going after the local service market with everything we’ve got,” Mr. Allen declared.

The Bells have their own plans to keep AT&T at bay as they attack its long-distance turf, but Mr. Allen predicted “it could be well into the next century before any of them service their first long-distance customer in their own territory.”

This is because recently passed telecommunications legislation requires the Bells to open up their local markets fully to competitors, including letting companies such as AT&T hook up to their local-phone lines, before the Bells themselves can offer long-distance service.

Mr. Allen said AT&T intends to hold the Bells’ feet to the fire. “We didn’t send our lawyers on vacation,” he declared.

¹ AT&T complains that it cannot “practicably” or “reasonably” offer local services. (AT&T, p. 3.) In our local exchange serving area in California, AT&T and nearly seventy other CLCs certificated by the CPUC can resell our residential dialtone at its below-cost price minus a 10% discount. Numerous other CLCs have signed agreements to interconnect with and lease elements of our network -- both before the passage of the Act and before the FCC’s interconnection rules.

AT&T's easiest route into the local market will be to sell services by leasing some of the lines and other facilities already owned by the Bells. Or, "we will go all the way around the local networks," using alternate access providers currently covering 70 cities, Mr. Allen said.

Using this new system, Mr. Allen said AT&T plans to capture a third of the local market "within a few years.... Even if we only take 20% of that addressable market share by the year 2000, that would mean an additional \$15 billion to \$18 billion a year in revenue for AT&T."

The local service will become part of an AT&T bundled offering that includes wireless, Internet and other services. Mr. Allen said that cellular phone service, which generated \$3 billion in revenue in 1995, "could be a \$7 billion-to-\$8 billion-a-year business for us in five years or less."²

Other large incumbents are following the same strategy. MCI's Home Phone Service offers California customers unlimited local service, local calling and intraLATA toll calling for \$24.95.

The "home town" advantage accrues to "national carriers," not to "regional carriers." AT&T also complains that SNET and Alltel have positioned themselves "as the 'home town' local carrier with the closest ties to customers in [their] area." (AT&T, pp. 3, 5.) This vague allegation has AT&T talking out of both sides of its mouth. Again, AT&T's Allen says:

Most of our large business customers are already hard-wired to the AT&T network for long distance. A substantial number of the lines serving customers from our digital switching centers are connected directly to the offices of business customers.

Under the provisions of the [1996 Act], and with some straightforward software changes, we could begin to handle our business customers' local service. The California P.U.C. has already cleared the way for us to do this, and we have similar plans for other states....

While many business customers are hard wired to the AT&T network, millions of consumers are hard-wired to our brand.

² John J. Keller, "AT&T Challenges the Bell Companies; Allen Outlines Plans to Take Big Part of Local Market Over Next Several Years," Wall St. J., June 12, 1996, at A3.

In a recent Morgan Stanley survey, 30 percent of the people surveyed said they would switch to AT&T for local service if the price were the same. In a Yankee Group survey, almost 50 percent of the people said that if they had the option of getting local and long distance from the same carrier, they would choose AT&T. No other company got more than 6 percent.

That's a reflection of the power of the AT&T brand among consumers. They're looking to AT&T to deliver on the promise of information technology. And we won't disappoint them.

Our plan is to enter this expanded market with a range of offers. And quite frankly, it will be a range of offers such as this industry has never seen before. We will offer business and consumers bundles of services that combine local and long distance, wireless, on-line services, even television.³

"The power of the AT&T brand" and its one-package strategy has been amply demonstrated in California. Although it was not legally permitted to advertise its provision of most local services until January 1, 1995, by the second quarter of 1996 the "hard-wiring" of customers that Allen refers to had resulted in our loss of approximately fifty-two percent of overall intraLATA toll usage for business customers and close to nine percent for residential customers.⁴ Since business accounts for about two-thirds of intraLATA toll, we have already lost as great a share of the intraLATA toll market as it took AT&T fifteen years to lose in the interLATA toll market.

AT&T itself has gleefully observed that "anywhere between 30 and 60 percent of the people in the U.S. still think AT&T is their local phone company. And it won't be long before they're right."⁵ The "power of the AT&T brand" is incalculable. According to AT&T's 1995 Annual Report, its advertising costs alone for 1995 were \$2.27 billion.⁶

³ Robert E. Allen, "The 1996 Telecommunications Bill," Remarks delivered at a news conference, Washington, D.C., February 8, 1996 (As prepared for delivery).

⁴ Study conducted by Quality Strategies and filed with the CPUC on September 30, 1996, in R.93-04-003/I.93-04-002/R.95-04-043/I.95-04-044.

⁵ Joseph P. Nacchio, AT&T Executive Vice President, Morgan Stanley conference, February 13, 1996.

⁶ AT&T 1995 Annual Report, "Advertising Costs," p. 38.

The economic advantage accrues to "national carriers," not to "regional carriers." Even vaguer than its complaint that "regional carriers" have a "home town" advantage is AT&T's complaint that such carriers will have an economic advantage. "Regional carriers ... may set rates that are based solely upon the market needs of their specific areas and that need only reflect a single LEC's access rates, often the rates of their own affiliates."
(AT&T, p. 6.)

No "regional carrier" by this description exists, either. No IXC that limited its service to "specific areas" would ever attract any customers. Nor could any carrier "set rates that ... only reflect a single LEC's access rates," unless it took the extraordinary step of refusing to let its customers call outside its region. Moreover, even if a LEC could favor its interLATA affiliate as AT&T describes, it would be inconsistent with other allegations that AT&T makes. A LEC could favor an affiliated "regional carrier" only by reducing access charges in its region below the national average paid by competing "national" carriers. Yet AT&T complains that access charges are too high: "the regional IXCs' local affiliates recover access charges that are still laden with extraordinary subsidies. The existence of these non-cost based rates enables the regional carriers' parent companies to profit handsomely from their subsidiaries' combined operations, even if the IXC affiliate offers discounted long distance rates. National competitors, in contrast, must treat all of their access charge payments as costs." (AT&T, p. 6).

This last allegation ignores Section 272(e) of the Act.⁷ In fact, AT&T ignores in their entirety the separate affiliate requirements and other safeguards of the FCC's rules and of

⁷ "A Bell operating company ... shall charge [an interLATA] affiliate ..., or impute to itself (if using the access for its provision of its own services), an amount for access to its telephone exchange service and exchange access that is no less than the amount charged to any unaffiliated interexchange carriers for such service."

Sections 251, 252, 271, 272 *et al.* of the Act. These safeguards, which of course do not apply to AT&T or other large incumbents, undoubtedly burden BOC affiliates with an economic disadvantage over and above the economic disadvantage of being new, small-scale entrants. "National" carriers can fully integrate local exchange, exchange access, video, Internet, wireless, or wireline toll service, and cross-subsidize services or customers at will. "National" carriers own their own networks. By and large, new entrants will depend upon the "national" carriers for transmission capacity. The enormous economies of scale and scope that are typical of telecommunications services confer an economic advantage on any provider that can deliver different services in large volumes using a single platform. The more "national" the carrier, the more of an economic advantage its scale and scope will confer. It was for these very reasons that AT&T's earliest competitors were explicitly subsidized through such means as E.N.F.I.A. rates and the equal charge per unit of traffic rule.

II. THE SELECTIVE RELIEF THAT AT&T SEEKS WOULD NOT BENEFIT CONSUMERS.

AT&T claims that "granting national carriers the flexibility to offer geographically-specific rates in those areas would not harm existing competition -- or consumers -- anywhere else. Even if national carriers are permitted to offer geographically specific rates in areas where they face competition from regional carriers, they would still have to charge their general rate-averaged rates in all other areas." (AT&T, p. 7.) By this statement, AT&T simply offers to give up the sleeves of its vest. AT&T does not deny that it could finance selective attacks on "regional" competitors with profits from higher prices charged to consumers in the rest of the nation. This is neither a new strategy for AT&T, nor is it one the Commission is likely to be unfamiliar with. As the Commission knows, AT&T has a history of targeting

discount plans and promotions to a minority of high-volume customers, while increasing retail rates for the majority of other customers.⁸ Under Section 272(e) of the Act, even in their own regions the BOCs' interLATA affiliates must buy from the same access tariffs as AT&T. AT&T's size and scope suggest that any differences in other costs will be in its favor.

The BOCs will not all receive interLATA relief at the same time. The relief that AT&T requests is not needed for AT&T to compete on a regional basis. Rather, it is designed to snuff out competition within a region, at the expense of customers outside that region. AT&T's intention is to pick them off the BOCs' affiliates one at a time, with region-specific promotions, as they walk out the LATA door.

III. AT&T PRESENTS NO REASON THE COMMISSION SHOULD PERMIT GEOGRAPHICALLY TARGETED PROMOTIONS OF MORE THAN 90 DAYS.

AT&T complains that the Commission only permits carriers to offer geographically targeted promotional discounts for periods of 90 days or less. AT&T says that "the rule as adopted will place national carriers at a significant disadvantage compared to regional carriers, particularly IXCs that are affiliated with dominant local exchange carriers." (AT&T, pp. 9-10.)

AT&T does not explain why the 90 day limitation "will place national carriers at a significant disadvantage compared to regional carriers," and presents no information or arguments the Commission has not already considered. Moreover, the Commission recently decided in its interconnection proceeding that incumbent LECs should not offer promotions of

⁸ See *Policy and Rules Concerning Rates for Dominant Carriers, Revisions to Price Cap Rules for AT&T*, CC Docket No. 87-313, 93-197, Further Notice of Proposed Rulemaking, FCC 95-198, paras. 28-31.

CERTIFICATE OF SERVICE

I, Chuck Nordstrom, hereby certify that on this 21st day of October, 1996, copies of the foregoing Pacific Telesis Group's "OPPOSITION TO PETITION FOR RECONSIDERATION" in CC Docket No. 96-61, were served by hand or by first-class United States mail, postage prepaid, to the parties listed below.

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